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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CRR-1124-2007 (O&M)
Date of decision: 28.02.2023**

Jagir Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Narinder Singh Sindher, Advocate
for the petitioner.

Mr. Amit Rana, Sr. D.A.G., Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner has filed the instant revision petition to impugn the order dated 03.07.2007 passed by learned Additional Sessions Judge Nawanshahr whereby the appeal preferred by him against the judgment of conviction and sentence dated 18.07.2003 passed by learned Sub Divisional Judicial Magistrate, Balachaur, was dismissed.

Vide judgment dated 18.07.2003 Sub Divisional Judicial Magistrate, Nawanshahr convicted and sentenced the petitioner under Section 304-A of Indian Penal Code to undergo rigorous imprisonment for two years along with fine of Rs.5000/-.

I have perused the judgments passed by Courts below and do not find any illegality much less perversity in the impugned judgment of conviction and order of sentence.

Learned counsel for the petitioner has fairly submitted that in view of the findings of fact recorded by both the Courts below, he would not press the instant revision petition on merits and would instead restrict his prayer qua the quantum of sentence only. Learned counsel submits that the occurrence in question pertains to the year 1999 and the petitioner has thus, suffered the agony of a protracted trial for more than 24 years. Learned counsel further submits that the petitioner has led a disciplined life ever since then and has not been involved in any other criminal case. A prayer, therefore, has been made that in the aforesaid facts and circumstances, a lenient view be taken and the quantum of sentence awarded to the petitioner by the Trial Court be reduced to the period already undergone as no useful purpose would be served by sending the petitioner behind bars. In support of his submissions, learned counsel has placed reliance on the judgment of this Court in '**Bachna Ram vs. State of Haryana', 2005 (3) RCR (Crl.) 966.**

As per the custody certificate, which has been filed by the State counsel today in Court, the petitioner has undergone 03 months and 23 days. The petitioner is not shown to be involved in any other criminal case.

Heard learned counsel for the parties and perused the relevant material available on record.

In the facts and circumstances, this Court does not deem it appropriate to send the petitioner behind bars at this juncture when admittedly he has been fastened with many responsibilities. No doubt, the accident in question took away one life, however, at the same time, it cannot be overlooked that the ultimate goal of punishment in a modern

civilized society is to attempt reformation of the offender. It may not always be necessary in each and every case to incarcerate the offender where he/she has had an opportunity to repent for his/her wrongs. Forgiveness would ensure a better remedy than imprisonment, especially in cases like the one in hand where the accident in question could not be said to have been an intentional act.

Hon'ble Supreme Court in '***Ved Prakash vs. State of Haryana', 1981(1) SCC 447*** has also observed that "*it is the duty of the sentencing Court to be activist enough to collect such facts as have a bearing on punishment with a rehabilitating slant.*" It was further observed by the Apex Court "even if the Bar does not help, the Bench must fulfill the humanizing mission of sentencing implicit in such enactments as the Probation of Offenders Act.

Further, Hon'ble Supreme Court in ***Manjappa vs. State of Karnataka, 2007(3) RCR (Crl.) 216*** while considering the scope of Section 361 Cr.P.C. and the provisions of Probation of Offenders Act held that such a relief should be granted where the offence was not of very grave nature and in some cases where *mens rea* was absent as in cases of rash and negligent driving under Section 279 r/w Section 304-A IPC.

Hon'ble Supreme Court in ***State through CBI Anti Corruption Branch, Chandigarh vs. Sanjiv Bhalla and another (Crl. Appeal No.1338-1339/2014) decided on 04.07.2014*** while referring to *Manjappa's* case (supra) observed that the Court desired to convey that an offence punishable under Section 279/304-A IPC being a result of an accident was, therefore, not a grave as there was an absence of *mens rea*.

Keeping in view the facts and circumstances of the case as well as the submissions made by learned counsel for the petitioner, this Court is of the considered view that ends of justice would be met, if while maintaining the conviction of the petitioner his substantive sentence of two years is reduced to the period already undergone by him in the present case.

However, fine imposed on the petitioner is enhanced from Rs.5000/- to Rs.10,000/-. It is made clear that in case of non-deposit of fine with the trial/successor Court within a period of two months from the date of this order, benefit of reduction of sentence shall not accrue to the petitioner and he will be required to undergo the remaining part of the sentence awarded to him. On deposit of fine, the enhanced amount of the fine shall be disbursed to the legal representatives of the deceased and the injured complainant in equal proportion, on proper identification.

With the aforesaid modifications, the instant revision petition is disposed of.

28.02.2023*ps-I***(MANJARI NEHRU KAUL)
JUDGE**

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No